

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PAULA M. LELIGDON, ¹)	CASE NO.: 1:14CV2810
)	
)	
)	
Plaintiff,)	JUDGE DONALD NUGENT
)	
v.)	
)	
ROBERT McDONALD,)	
)	<u>DEFENDANT'S PARTIAL</u>
Defendant.)	<u>MOTION TO DISMISS</u>

Pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, defendant Robert McDonald, Secretary of Veterans Affairs, hereby moves this Court for an order partially dismissing Plaintiff's Complaint in this case.² Specifically, Defendant respectfully moves this Court to dismiss all of Plaintiff's claims except those contained in Agency Case No. 200H-VI10-2013-103868. Therefore, all of Plaintiff's claims under the ADEA, and her unexhausted claims under Title VII, must be dismissed. Fed. R. Civ. P. 12(b)(6). Further, this

¹ The caption of the Complaint filed in this case identifies Plaintiff as "Patricia M. Leligdon." (ECF No. 1.) Defendant believes that this is an error, and that Plaintiff's correct name is "Paula M. Leligdon." Therefore, Defendant has captioned this pleading with Plaintiff's correct name.

² When ruling on a motion to dismiss brought pursuant to Fed. R. Civ. P. 12(b)(6), a court may consider documents other than the pleadings that are referred to in the complaint and are integral to the claims therein without converting the motion to dismiss into one for summary judgment. Bassett v. NCAA, 528 F.3d 426, 430 (6th Cir. 2008); Weiner v. Klais & Co., Inc., 108 F.3d 86, 89 (6th Cir. 1997). Leligdon cites to all three EEO complaints in her Complaint. (Compl. ECF No. 1, PageID # 3, 6-7, 15-16, ¶¶ 4, 21, 27, 57-58.) Therefore, those documents, which are attached to the Memorandum in Support, may be considered by the Court in deciding the instant motion to dismiss. However, if the Court determines that the attached documents do not meet that standard, Defendant respectfully moves this Court, in the alternative, for summary judgment in its favor pursuant to Rule 56 of the Federal Rules of Civil Procedure.

Court lacks subject matter jurisdiction over Plaintiff's WPA claim, which also must be dismissed. Fed. R. Civ. P. 12(b)(1).

The reasons for this motion are more fully set forth in the attached memorandum in support, which is incorporated herein by reference.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2015, the foregoing Defendant's ***Partial Motion To Dismiss and Memorandum In Support*** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Lisa Hammond Johnson
Lisa Hammond Johnson
Assistant U.S. Attorney